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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,768	12/10/1999	CHARLES C. BYERS	BYERS-31-1-1	9256

32361 7590 10/19/2004

GREENBERG TRAURIG, LLP  
885 3RD AVENUE  
NEW YORK, NY 10022

EXAMINER
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ODLAND, DAVID E

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/458,768

Applicant(s)

BYERS ET AL.

Examiner

David Odland

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-44.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

HASSAN KIZOB  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Art Unit: 2662

Continuation of part 5c: the Applicant's arguments are not persuasive.

On page 3 the Applicant argues that Onno does not teach the claimed invention because Onno does not disclose "...separating data and signaling portions of the narrowband transmissions into separate byte positions in the converted composite ATM cells..." The Examiner respectfully disagrees. Onno points out in column 4 lines 25-32 that the system processes separate signaling cells as well as data cells associated with the narrowband and broadband data. Thus, since the signaling and data are transported in completely separate cells, they must inherently be in different byte positions. Also, the claim does not recite that a single cells comprises both the signaling bytes along with the data bytes of the narrowband transmission. The claim recites "...separating data and signaling portions of said narrowband transmissions into separate byte positions in the composite ATM *cells*..." (emphasis added to show the term 'cell' as a pluralized as 'cells'). The Examiner would like to note that in the Examiner's interpretation of the claim the claim does not recite that *each* cell has both the signaling and data information but rather the wording of the claim implies that the composite cells, as a whole or group of cells, comprise the signaling and data information in different byte positions. This is what is being performed in Onno in column 4 lines 25-32. Furthermore, figure 3 of the present application show this. In the figure, there are two separate ATM cells. One cell for transporting signaling information (item 170) and another cell for carrying data information (item 166). Thus, the Examiner's interpretation of the claims is consistent with the Applicant's specification. Since the Applicants arguments appear to imply that the signaling and data of the narrowband transmissions is transported in the *same* cell, the Examiner would like to suggest that the claims be amended to more particularly point out and claim this feature of the invention.